

PT 98-40

Tax Type: PROPERTY TAX

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**LIFE CENTER CHURCH OF
UNIVERSAL AWARENESS,
APPLICANT**

v.

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE**

**Docket Nos: 93-16-0843
93-16-1258
93-16-1423**

**Real Estate Exemption
For 1993 Tax Year**

**P.I.N.S: 20-36-218-026
20-36-218-027
20-15-102-001
20-15-102-007
20-16-205-018**

Cook County Parcels

**Robert C. Rymek
Administrative Law Judge**

RECOMMENDATION FOR DISPOSITION

SYNOPSIS:

This proceeding raises the issue of whether Cook County Parcel Index Numbers 20-36-218-026; 20-36-218-027; 20-15-102-001; 20-15-102-007; and 20-16-205-018 (hereinafter collectively “the subject property”), should be exempt from 1993 property taxes under section 19.2 which exempts property used for religious purposes, and section 19.16 which exempts parking areas used and owned by an exempt institution. 35 ILCS 205/19.2, 19.16.¹

¹ In People ex. rel. Bracher v. Salvation Army, 305 Ill. 545 (1922), the Illinois Supreme Court held that the issue of property tax exemption necessarily depends on the statutory provisions in force during the time for which the exemption is claimed. This applicant seeks exemption from 1993 real estate taxes. Therefore, the applicable provisions are those found in the Revenue Act of 1939 (35 ILCS 205/1 *et seq.*).

This controversy arose as follows:

On November 1, 1993, Life Center Church of Universal Awareness (hereinafter “applicant” or the “Church”) filed Property Tax Exemption Complaints with the Cook County Board of (Tax) Appeals (hereinafter the “Board”) seeking exemption for Cook County Parcel Index Numbers 20-15-102-001; 20-15-102-002; 20-15-102-003; 20-15-102-004; 20-15-102-007; 20-15-102-009; 20-36-218-026; 20-36-218-027; and 20-16-205-018. Dept. Group Ex. No. 1. The Board reviewed the applicant’s complaints and on January 20, 1994, recommended that an exemption be granted for parcel 20-16-205-018. On May 19, 1994 and May 26, 1994, the Board recommended “no action” on the remaining parcels. On December 22, 1994, the Illinois Department of Revenue (hereinafter the “Department”): (1) granted exemptions for parcels 20-15-102-002; 20-15-102-003; 20-15-102-004; and 20-15-102-009; (2) denied exemptions for parcels 20-36-218-026; 20-36-218-027; 20-15-102-007; and 20-16-205-018; and (3) granted an exemption for parcel 20-15-102-001 except that portion which consisted of two buildings located on the parcel and the land upon which those buildings stand. The applicant filed a timely appeal seeking to have all the subject properties exempted from 1993 real estate taxes in their entirety. On May 23, 1997, a formal administrative hearing was held at which evidence was presented. Following a careful review of all the evidence, it is recommended that parcels 36-218-026, 20-36-218-027, 20-15-102-007, and 20-16-205-018, be granted exemptions for the 1993 tax year and that parcel 20-15-102-001 be granted an exemption except for that portion which consisted of any buildings located on the parcel and the land upon which such buildings stand.

FINDINGS OF FACT

1. Dept. Gr. Ex. No. 1 and Dept. Gr. Ex. No. 2 establish the Department’s jurisdiction over this matter and its positions that for the 1993 tax year (1) parcel

20-15-102-001 was entitled to exemption except that portion which consisted of two buildings located on the parcel and the land upon which those buildings stand; and (2) parcels 20-36-218-026; 20-36-218-027; 20-15-102-007; and 20-16-205-018 were not entitled to exemption.

2. Applicant acquired title to parcel 20-15-102-001 via a quitclaim deed dated June 27, 1990. The parcel is located at 5501-15 South Michigan Avenue and was previously used as a gas station. The gas station is now out of business and boarded up. The parcel is used as a parking lot for the church. App. Gr. Ex. Nos. 1, 7; Tr. pp. 25-26.
3. Parcels 20-15-102-002; 20-15-102-003; and 20-15-102-004, are located at 5517 S. Michigan Avenue and consist of vacant land used for church parking. The Department approved these parcels for exemption. Dept Gr. Ex. No. 2; App. Gr. Ex. No. 7.
4. Parcel 20-15-102-007 is improved with a one-story building. In 1993 the building was used exclusively as a “food pantry” at which the applicant stored and distributed food for the needy at no charge. Tr. pp. 28-29.
5. Parcel 20-15-102-009 is improved with a 22,715 square foot building (hereinafter the “church building”) in which worship services are conducted. The Department granted an exemption for parcel 20-15-102-009. Tr. pp. p.30-38; Dept Gr. Ex. No. 2; App. Gr. Ex. No. 7.
6. Parcel 20-16-205-018 is an empty lot used for church parking. The parcel is located at 5500-08 South Perry which is approximately five blocks from the

- church building. The applicant acquired title to parcel 20-16-205-018 via a quitclaim deed on January 23, 1981. Tr. p. 47; App. Gr. Ex. No. 1.
7. Parcels 20-36-218-026 and 20-36-218-027 are improved with a house and one-car garage. App. Gr. Ex. No. 7.
 8. In 1993, the church pastor resided in the house while the garage was used primarily to store church items and supplies. Tr. pp. 16-24.
 9. The pastor was required to live in the house as part of his job duties. Tr. pp. 17.
 10. The house was located only about ten minutes away from the church and was regularly used for church activities such as planning meetings, religious counseling, youth summer camp, retreats, and religious instruction. Tr. pp. 17, 22, 31
 11. The applicant acquired title to parcels 20-36-218-026 and 20-36-218-027 in 1969 via a quitclaim deed. At that time, the applicant was known as Mount Zion M.B. Church. The applicant changed its name to Life Center Church of Universal Awareness in 1980, but it was not until November 14, 1994 that the property title reflected the name change. App. Gr. Ex. Nos. 1; 4, 5; Tr. pp. 8.
 12. None of the parcels at issue in the case at hand were leased in 1993. Tr. p. 34.
 13. There are approximately 3,000 active members of the Church. Tr. p. 17.
 14. Only limited street parking is available near the church building. App. Gr. Ex. No. 7, Docs. E, F.

CONCLUSIONS OF LAW

An examination of the record establishes that the applicant has demonstrated by the presentation of testimony, exhibits, and argument, evidence sufficient to warrant a 1993 property

tax exemption for parcels 36-218-026, 20-36-218-027, 20-15-102-007, 20-16-205-018, and 20-15-102-001 except that portion of parcel 20-15-102-001 which consisted of any buildings and the land upon which such buildings stand. In support thereof, I make the following conclusions:

Article IX, section 6 of the Illinois Constitution of 1970 limits the General Assembly's power to exempt property from taxation as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

The General Assembly may not broaden or enlarge the tax exemptions permitted by the constitution or grant exemptions other than those authorized by the constitution. Board of Certified Safety Professionals v. Johnson, 112 Ill.2d 542 (1986). Furthermore, article IX, section 6 does not in and of itself grant any exemptions. Rather, it merely authorizes the General Assembly to confer tax exemptions within the limitations imposed by the constitution. Locust Grove Cemetery v. Rose, 16 Ill.2d 132 (1959). Thus, the General Assembly is not constitutionally required to exempt any property from taxation and may place restrictions or limitations on those exemptions it chooses to grant. Village of Oak Park v. Rosewell, 115 Ill. App.3d 497 (1st Dist. 1983).

In accordance with its constitutional authority, the General Assembly enacted sections 19.2 and 19.16 of the Act which exempts from taxation:

All property used exclusively for religious purposes *** and not leased or otherwise used with a view to a profit including all such property owned by churches or religious institutions or denominations and used in conjunction therewith as parsonages or other housing facilities provided for ministers ***. 35 ILCS 205/19.2.

and

Parking areas, not leased or used for profit, when used as part of a use for which an exemption is provided hereinbefore and owned by any *** religious or charitable institution which meets the qualifications for exemption. 35 ILCS 205/19.16.

The applicant seeks exemption under these provisions for several different parcels and relies upon several different portions of these statutes.

The applicant first seeks exemption for parcels 20-36-218-026 and 20-36-218-027 under the parsonage provision of section 19.2. Generally, to qualify for a religious based property tax exemption under section 19.2, the applicant must establish two main facts by “clear and convincing evidence” (Evangelical Hospitals Corp. v. Dep’t of Revenue, 223 Ill. App. 3d 225, 231 (2nd Dist. 1991)). The applicant must show (1) that the subject property was used exclusively² for religious purposes, and (2) that the subject property was not leased or otherwise used with a view to a profit. 35 ILCS 205/19.2; American Nat’l Bank & Trust Co. v. Dep’t of Revenue, 242 Ill. App. 3d 716 (2nd Dist. 1993). In addition to these two general requirements, an applicant seeking exemption for a parsonage must also establish that the parsonage was owned by a religious institution. Immanuel Evangelical Lutheran Church v. Dep’t of Revenue, 267 Ill. App. 3d 678 (4th Dist. 1994).

Here, the applicant presented evidence establishing that the parsonage at issue has been owned by the applicant, albeit under different names, since 1969. Moreover, the fact that the applicant qualifies as religious institution is undisputed in light of the fact that the Department has already granted the applicant a religious exemption for the church building itself and several

² The word “exclusively,” when used in tax exemption statutes means “the primary purpose for which property is used and not any secondary or incidental purpose.” Gas Research Institute v. Dep’t of Revenue, 154 Ill. App. 3d 430 (1st Dist. 1987); Pontiac Lodge No. 294, A.F. & A.M. v. Dep’t of Revenue, 243 Ill. App. 3d 186 (4th Dist. 1993).

parking areas. Accordingly, religious ownership of the parsonage has been established and the issue becomes whether the parsonage was used primarily for religious purposes.

In McKenzie v. Johnson, 98 Ill. 2d 87, 99 (1983), our supreme court set forth the following analysis to be used in determining whether a parsonage is used primarily for religious purposes:

[A] parsonage qualifies for an exemption if it reasonably and substantially facilitates the aims of religious worship or religious instruction because the pastor's religious duties require him to live in close proximity to the church or because the parsonage has unique facilities for religious worship and instruction or is primarily used for such purposes.

Subsequent to McKenzie, the legislature amended section 19.2 and added language providing that:

A parsonage, convent or monastery shall be considered for purposes of this Section to be exclusively used for religious purposes *when the church, religious institution, or denomination requires that the above listed persons who perform religious related activities shall, as a condition of their employment or association, reside in such parsonage, convent or monastery.* (Emphasis added.) See Pub. Act 83-1250 eff. Aug. 9, 1984 which added this language to section 19.2.

Here, the applicant presented testimony that the pastor was required to reside in the parsonage as a condition of his employment. Such testimony was adequate to establish that the parsonage was being used for religious purposes under the amended version of section 19.2. Even if such testimony was inadequate in and of itself, the applicant presented substantial other evidence showing that the parsonage was being used for religious purposes. For example, the applicant presented evidence establishing that in 1993: (1) the parsonage was close to the church and the pastor's religious duties required him to live in the parsonage; (2) the parsonage was regularly used for church meetings, religious counseling, retreats, and religious instruction; (3) the garage portion of the parsonage was used primarily to store church items and supplies; and

(4) the parsonage was not leased or otherwise used with a view to a profit. Under these circumstances, the religious use requirement is satisfied and the parsonage is entitled to exemption under section 19.2.

The applicant also seeks a section 19.2 exemption for parcel 20-16-205-007 (the food pantry). However, because the exemption sought for parcel 20-15-102-007 is not a parsonage exemption, but rather simply an exemption for “property used exclusively for religious purposes,” the applicant need not establish exempt ownership. See Immanuel Evangelical Lutheran Church, *supra*. Rather the applicant need only establish that the parcel was used exclusively for religious purposes and was not leased or otherwise used with a view to a profit. 35 ILCS 205/19.2.

In People ex re. McCullough v. Deutsche Germeinde, 249 Ill. 132, 136-137 (1911) our supreme court stated that “a religious purpose means a use of such property by a religious society or body of persons as a stated place for public worship, Sunday schools and religious instruction.” However, the court subsequently clarified that statement and noted that it was not intended to be “inclusive of everything that might in the future be regarded as a use for religious purposes but as illustrative of the nature of such use.” People ex rel. Carson v. Muldoon, 306 Ill. 234, 238 (1922).

Illinois courts have never set forth an all-inclusive definition or specification of what constitutes a religious purpose. Evangelical Teacher Training Ass’n v. Novak, 118 Ill. App. 3d 21 (2nd Dist. 1983). However, there appears to be a trend in the case law towards recognizing that charitable and religious activities are often interrelated. See Evangelical Teacher Training Ass’n v. Novak, *supra*. Moreover, feeding the poor has long been recognized as a central religious tenet. Stuart Circle Parish v. Board of Zoning Appeals, 946 F. Supp. 1225 (E.D.Va.

1996) (noting that “the feeding of those less fortunate constitutes methods of obtaining a blessing and the means to redemption” and citing the Bible at Matthew 25:35-46). Thus, in the case at hand, applicant’s use of parcel 20-15-102-007 exclusively for storing and distributing food to the needy constitutes a religious activity. Moreover, the applicant presented evidence that the parcel was not leased or otherwise used with a view to a profit. Accordingly, the parcel qualifies for exemption.

Applicant next argues that parcel 20-15-102-018 should be exempt as a parking area under section 19.16. To qualify for exemption under section 19.16 the applicant must establish that the parking area was: (1) “reasonably necessary” for the applicant’s exempt purposes (Northwestern Memorial Foundation v. Dep’t of Revenue, 141 Ill. App. 3d 309, 313 (1st Dist. 1986)); (2) not leased or otherwise used with a view to a profit (Village of Oak Park v. Rosewell, 115 Ill. App. 3d 497 (1st Dist. 1983)); and (3) owned by a religious institution (Faith Christian Fellowship v. Dep’t of Revenue, 226 Ill. App. 3d 322 (1st Dist. 1992)).

In the case at hand, the applicant’s congregation is large and there is limited on street parking near the church building. Additionally, section 17-28-840(2) of the Chicago Municipal Code requires that churches provide one parking space for every 12 seats in the church building. Chicago, Ill., Code § 17-28-840(2) (1993). Thus, it was “reasonably necessary” for the applicant to use parcel 20-16-205-018 as parking for the church.³ See Northwestern Memorial Foundation, *supra* at 313 (noting that the parking area need not be “absolutely indispensable” and granting an exemption for a parking area located in a densely populated urban area where there was a shortage of parking). The applicant also presented evidence showing that in 1993

³ The fact that the Department has previously granted an exemption for other church parking areas (parcels 20-15-102-002; 20-15-102-003 and 20-15-102-004) suggests that the

parcel 20-16-205-018 was not leased or otherwise used with a view to a profit and was owned by the applicant, a religious institution. Tr. p. 34. Accordingly, parcel 20-16-205-018 is entitled to an exemption under section 19.16.

Finally, the applicant seeks an full exemption for parcel 20-15-102-001. The Department granted an exemption for parcel 20-15-102-001 “except that portion which consisted of two buildings located on the parcel and the land upon which those buildings stand.” At the hearing, the applicant presented limited evidence regarding this parcel. The applicant’s evidence consisted primarily of photographs of the property. From these photographs, it appears that the property is improved with only a single building, an old boarded-up gas station. For purposes of this recommendation, the precise number of buildings located on the parcel makes no difference because the applicant failed to present any evidence that such building or buildings were actually used for exempt purposes. See Antioch Missionary Baptist Church v. Rosewell, 119 Ill. App. 3d 981 (1st Dist. 1983) (A vacant building is not being used for exempt purposes and is therefore not entitled to exemption.). Thus, there is no reason to disturb the department’s determination, which exempted only those portions of parcel 20-15-102-001 which were used for parking.

Therefore, for the reasons stated above, I recommend that Cook County Parcel Index Numbers 36-218-026, 20-36-218-027, 20-15-102-007, 20-16-205-018, and 20-15-102-001 be exempted from 1993 real estate taxes except that portion of parcel 20-15-102-001 which consisted of any buildings and the land upon which such buildings stand.

Department does not dispute that off-street parking was reasonably necessary and that the initial

Date

Robert C. Rymek
Administrative Law Judge

denial of exemption for parcels 20-16-205-018 was based upon a lack of evidence of ownership.